

MEMORANDUM

TO: Governing Board Members

FROM: Tommy B. Strowd, P.E., Division Director, Operations, Maintenance & Construction

DATE: June 14, 2012

SUBJECT: A Resolution of the Governing Board of the South Florida Water Management District Un-adopting as a Work of the District a Portion of the Deer Fence Canal (G-3W) Comprising Approximately 0.41 Acres More or Less, Hendry County, Florida

Background:

Pursuant to Resolution No. 2010-804, the Deer Fence Canal (G-3W) was adopted as a "Work of the District" in accordance with Section 373.086, Florida Statutes, making the canal and all facilities located within, over, or connected to the canal subject to the provisions of Chapter 40E-6 of the Florida Administrative Code. Included in Resolution No. 2010-804 is a portion of the Deer Fence Canal comprising approximately 0.41 acres more or less (Exhibit A), which includes an existing bridge owned by H&H Farms, LLC, a Florida limited liability company, James P. Howell and Karen E. Howell.

According to Mr. and Mrs. Howell, said bridge is the primary access across the Deer Fence Canal for several properties surrounding or near the Deer Fence Canal and subjecting said bridge to the provisions of Chapter 40E-6 of the Florida Administrative Code could result in a loss of access and removal of the bridge, exposing the Howells and the District to potential disputes. Pursuant to a request from H&H Farms, LLC, James P. Howell and Karen E. Howell, the District has determined that it is in the public interest to "Un-adopt" as a "Work of the District" the 0.41 portion of the Deer Fence Canal shown in Exhibit A and, therefore, that the provisions of Chapter 40E-6 of the Florida Administrative Code no longer apply to the 0.41 acres or the bridge.

Pursuant to a Perpetual Drainage, Canal Right of Way and Access Easement agreement between the District and H&H Farms, LLC, a Florida limited liability company, James P. Howell and Karen E. Howell, the 0.41 acres and bridge will be subject to criteria designed to ensure that the District's current and future ability to operate, maintain, and/or improve the Deer Fence Canal is protected in perpetuity.

How this helps meet the District's 10-year Strategic Plan:

This action is necessary to allow the District to comply with requirements specified in the Perpetual Drainage, Canal Right of Way and Access Easement agreement between the District and H&H Farms, LLC, a Florida limited liability company, James P. Howell and Karen E. Howell.

Funding Source: No funding is required.

This Board item impacts what areas of the District, both resource areas and geography:

The impacted areas are the Operations, Maintenance, and Construction Bureau and the Clewiston Field Station.

What concerns could this Board item raise?

None anticipated.

Why should the Governing Board approve this item?

Not approving this item would be in contradiction with the Perpetual Drainage, Canal Right of Way and Access Easement agreement referenced above and could expose the District to potential disputes with surrounding or nearby properties.

If you have any questions, please do not hesitate to call me at ext. 6998.